

Pension Benefit Guaranty Corporation

82-15

April 30, 1982

REFERENCE:

[\*1] 4201 Withdrawal Liability Established  
4211(e) Withdrawal Liability - Reduction  
4232 Transfers to Single Employer Plan  
4232(d) Transfers to Single Employer Plan. Guaranteed Benefits  
4232(e) Transfers to Single Employer Plan. Transferee Plan  
4234 Asset Transfer Rules

OPINION:

This is in response to your letter to the Internal Revenue Service, which was referred to this agency, the Pension Benefit Guaranty Corporation ("PBGC"), for a response. Sections 4232 and 4234 of the Employee Retirement Income Security Act of 1974 ("ERISA") to which you refer in your letter were added to Title IV of ERISA by the Multiemployer Pension Plan Amendments Act of 1980 ("MPPAA").

We understand that \* \* \* Corporation \* \* \* \* \* is a contributing employer to the \* \* \* Pension Fund (the "Plan"), a multiemployer plan. desires to withdraw the assets and liabilities attributable to its employees from the Plan and establish a single employer plan for these employees. Your question is whether Sections 4232(d) and (e) and 4234 of the MPPAA require the Plan to separate the assets and liabilities attributable to \* \* \* and to transfer such assets and liabilities to a newly-created single employer plan if requested by [\*2] \* \* \*.

Section 4232 and 4234, which apply to transfers between a multiemployer plan and a single employer plan, do not require, directly or indirectly, that a multiemployer plan transfer assets and liabilities upon the request of a contributing employer. n1

n1 Section 4234 also applies to assets transferred between multiemployer plans.

Section 4234 provides that a transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan. Multiemployer plans are required to provide rules regarding the transfer of assets to another plan. (See House Explanation, Report 96-869 Part II). The rules need not require a transfer of assets and liabilities upon an employer's request. If there is a transfer of assets and/or liabilities, the transfer must satisfy rules established and applied uniformly. If the transfer of plan assets is in connection with a transfer of plan liabilities, the rules cannot unreasonably restrict the transfer of plan assets. Section 4232(d) governs PBGC's guarantee of benefits when liabilities are transferred to a single employer plan. Section 4232(e) generally prohibits a transfer [\*3] of liabilities to a single employer plan without the consent of that plan's sponsor.

Recently you spoke to \* \* \* of PBGC's Office of Program Operations and asked two additional questions. Your first question relates to the consequences of \* \* \* withdrawal from the Plan and establishment of a single employer plan. You should be aware that Section 4201 of ERISA provides that withdrawn employer will have liability to a \* \* \* multiemployer plan in the event of a complete or partial withdrawal. If there is a transfer of liabilities to a single employer plan in connection with a withdrawal, Section 4211(e) of ERISA provides that withdrawal liability would be decreased by the value of the transferred unfunded vested benefits. Your second question is whether a single employer plan may provide future benefit accruals only. This question is properly within the jurisdiction of the Department of Labor and the Internal Revenue Service, and we suggest that you contact on eof those agencies.

We hope this response is helpful. If you have any further questions, please call me or \* \* \* Staff Attorney, at 202-254-3010.

Henry Rose  
General Counsel